

## **REMARKS**

The present Amendment is in response to the Examiner's Office Action mailed September 4, 2007. By this paper, claims 3 and 21 are canceled, claims 9, 16, 18, 22, 23, and 34 are amended, and new claims 35-40 are added. Claims 1, 3-4, 8, 10-13, 17, 19-20, and 31-32 were previously canceled. Claims 2, 5-7, 9, 14-16, 18, 22-30 and 33-40 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicant notes that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicant: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and any references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Allowed Subject Matter**

The Examiner's allowance of claims 14, 24-30, and 33 is appreciated. Applicant wishes to thank the Examiner for the careful review and allowance of those claims. Applicant also notes that since newly amended dependent claims 22 and 23 depend from allowed independent claims

29 and 28 respectively, these claims are also now in a condition of allowance for at least the reasons that claims 29 and 28 are allowable.

The Applicant's submit the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. Applicant agrees with the Examiner that the claimed invention of claims 14, 22-30, and 33 are patentable over the prior art, but respectfully disagrees with the Examiners statement of reasons for allowance as set forth in Office Action. Applicant submits that it is the claim as a whole, rather than any particular limitation, that makes each of the claims allowable. No single limitation should be construed as the reason for allowance of a claim because it is each of the elements of the claim that makes it allowable. Therefore, Applicant's do not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, the claims allowable and do not make any admission or concession concerning the Examiner's statement in the Office Action.

The Examiner has indicated that claims 3, 9, 16, 18, and 22 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicant has amended independent claim 34 so as to include the limitations of previously pending dependent claim 3. In particular, the scope of newly amended independent claim 34 (i.e., the scope of previously pending claim 3) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten in an independent format. As acknowledged by the Examiner, that claim is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from newly amended independent claim 34 – namely, claims 2, 5-7, and 15 – are also in a condition for allowance.

Similarly, dependent claim 16 has been rewritten in independent format so as to incorporate all of the limitations of the base claim and any intervening claims. As acknowledged by the Examiner, claim 16 is now in a condition for allowance. Further, for at least the same reason as stated by the Examiner, claims depending from claim 16 – namely, claims 9 and 18 – are also in a condition for allowance.

In summary, claims 2, 5-7, 9, 14, 16, 18, 22-30, 33 and 34 are now pending in view of the above amendments, and all are patentably distinct from the prior art. Allowance of each of these claims is respectfully requested.

### **III. Rejection Under 35 U.S.C. §102(e)**

The Examiner rejects claims 2, 5-7, 15, 21, 23, and 24 under 35 U.S.C. § 102(e)<sup>1</sup> as being anticipated by *Tsuda et al.* (United States Patent No. 6,399,966). Applicant notes that as discussed above these claims have either been amended so as to be in a condition of allowance or have been canceled. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

### **IV. New Claims**

As shown above, Applicant has added new claims 35-40. Inasmuch as new claims 35-40 all variously depend from allowable independent claims 29, 30, and 33, Applicant submits that new claims 35-40 are in a condition of allowance.

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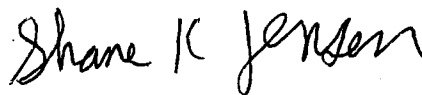
<sup>1</sup> Because *Tsuda* is only citable under 35 U.S.C. § 102(e), Applicants do not admit that *Tsuda* is in fact prior art to the claimed invention but reserve the right to swear behind *Tsuda* if necessary to remove it as a reference.

**CONCLUSION**

In view of the foregoing, Applicant believes the claims as amended or presently pending are in allowable form and that every issue raised by the Office Action has been addressed. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorneys.

Dated this 4<sup>th</sup> day of January, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric L. Maschoff".

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